

UNITED STATES DISTRICT COURT
for the
Eastern District of Wisconsin

In the Matter of the Search of:

Information Associated with Facebook Identification)
(UID) 100004360726527, that is stored at premises)
owned, maintained, controlled, or operated by Facebook)
Inc.,)
Case No. 17-M-1258

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property:

SEE ATTACHMENT A.

located in the Eastern District of Wisconsin, there is now concealed:

SEE ATTACHMENT B.

The basis for the search under Fed. R. Crim P. 41(c) is:

- evidence of a crime;
 - contraband, fruits of crime, or other items illegally possessed;
 - property designed for use, intended for use, or used in committing a crime;
 - a person to be arrested or a person who is unlawfully restrained.

The search is related to violations of: Title 18, United States Code, Sections 1951(a) and 924(c)

The application is based on these facts: See attached affidavit.

- Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

A handwritten signature in black ink, appearing to read "Alan R. Gault".

Applicant's signature

Benjamin Hruz, Special Agent FBI
Printed Name and Title

Sworn to before me and signed in my presence:

Date: 5/11/17

William B. Duffin
Judge's signature

Case 2:17-mj-01258
City and State: Milwaukee, Wisconsin

01/17 Page 1 of 19 Document 1
William E. Duffin, United States Magistrate Judge
Printed Name and Title

**AFFIDAVIT IN SUPPORT OF
AN APPLICATION FOR A SEARCH WARRANT**

I, Benjamin Hruz, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I make this affidavit in support of an application for a search warrant for information associated with a certain Facebook user ID that is stored at premises owned, maintained, controlled, or operated by Facebook Inc. ("Facebook"), a social networking company headquartered in Menlo Park, California. The information to be searched is described in the following paragraphs and in Attachment A. This affidavit is made in support of an application for a search warrant under 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A) to require Facebook to disclose to the government records and other information in its possession, pertaining to the subscriber or customer associated with the user ID.

2. I am a Special Agent with the Federal Bureau of Investigation ("FBI"), and have been so employed for over nineteen years. I am currently assigned to the Milwaukee Area Violent Crimes Task Force ("MAVCTF"). My duties as a Special Agent with the FBI include investigating violent crimes such as commercial robberies, carjackings, bank robberies and violent criminal enterprises. I have gained experience in the conduct of such investigations through previous case investigations, formal training, and in consultation with law enforcement partners in local, state, and federal law enforcement agencies.

3. This affidavit is based upon my personal knowledge as well as

information reported to me by other federal, state, and local law enforcement officers during the course of their official duties, all of whom I believe to be truthful and reliable. This affidavit is also based upon information gathered from interviews of citizen witnesses, reports, official records, law enforcement reports, and my training and experience.

4. Based on my training and experience and the facts as set forth in this affidavit, there is probable cause to believe that violations of Title 18, United States Code, Section 1951(a) (armed Hobbs Act robbery) and 924(c)(brandishing a firearm in furtherance of a crime of violence) have been committed by Elix Powell, Monaye Williams, and others.

5. More specifically, I seek authorization to search Facebook's information associated with Monaye Williams:

NAME	FACEBOOK IDENTIFICATION (UID)	FACEBOOK NAME
Monaye Williams	100001565819012	"Kiim Wells (K I M)"

PROBABLE CAUSE

6. On December 28, 2016, at approximately 9:15 a.m., two black male subjects robbed the Swan Pharmacy located at 9130 W. North Ave., City of Wauwatosa, Wisconsin. At all relevant times, the Swan Pharmacy located 9130 W. North Avenue in Wauwatosa, Wisconsin was engaged in the sale of articles and commodities in interstate commerce. One of the subjects was armed with a black semi-auto handgun. The

robbers ordered the employees to the ground and threatened to kill them if the victims did not comply with their demands. The subjects obtained a quantity of Schedule II narcotics and fled out the back door on the east side of the building.

7. Victim J.D. stated that she ran outside after the armed robbery and observed the two armed robbers in a black SUV leaving the alley and driving northbound on N. 91st St. Video footage from Swan Pharmacy covering the alley to the north of the pharmacy confirmed the suspects arrived and fled in the Lexus SUV. The SUV was last seen on video footage turning northbound on N. 91st St. from the alley. As Wauwatosa police officer Mike Nelson responded to the scene, he observed a black 2006 Lexus SUV (IL Lic. Z85 5229) that was abandoned, but left running, parked in the 2600 block of N. 91st St., on the wrong side of the road. A check of the Illinois license plate Z85 5229 revealed that the black 2006 Lexus SUV had been stolen in an armed robbery in Chicago earlier in the morning of December 28, 2016. Sergeant Brian Skornia of the Wauwatosa Police Department spoke with F.G., the listed owner of the black Lexus SUV and victim of the earlier armed robbery in the City of Chicago. F.G. provided a description of the subjects that robbed him as two black male subjects, 20-30 years old, one wearing a black jacket and one wearing a maroon jacket. Surveillance video from the Swan Pharmacy armed robbery revealed that one of the robbers was wearing a black jacket and one was wearing a maroon jacket.

8. The recovered Lexus SUV was processed and several latent fingerprints were recovered. The WI State Crime lab checked the recovered fingerprints first

through AFIS, a state of Wisconsin database, which returned negative results. The WI State Crime Lab then searched the recovered prints through the FBI NGI database, a nationwide database, which revealed that two of the fingerprints recovered from the interior of the vehicle belonged to Elix J. Powell (M/B 11-30-98), who has an IN state number of IN196464. Investigators from the Chicago Police Department interviewed F.G. and F.G. stated that he does not know Elix Powell and that there was no legitimate reason that Powell's fingerprints would be in his Lexus.

9. A search warrant for the Facebook account belonging to Elix Powell was obtained and the contents of Elix Powell's Facebook account revealed that, during the days leading up to and on December 28, 2016, the day of the armed robbery of the Swan Pharmacy, Elix Powell provided the phone number of 317-602-9150 to others as a way to contact him (Powell). Powell also stated in other Facebook conversations that 317-602-9150 was "Monaye's number." When the phone number 317-602-9150 is searched through Facebook, Facebook shows the phone number is registered to the account "Kiim Wells." During multiple private Facebook conversations during December of 2016, "Kiim Wells" told Elix her number was 317-602-9150. Additionally, in private Facebook communications between Powell and "Kiim Wells," Powell referred to the user, going by Facebook name "Kiim Wells," as his sister; and, in a *Mirandized* interview with law enforcement Elix Powell identified his sister as Monaye Williams. Finally, a public photo posted to the Facebook account of "Kiim Wells" was a picture of a college

acceptance letter from Harrison College dated April 10, 2015 and sent to Monaye Williams 4421 E. Washington St. Apt. A39, Indianapolis, IN 46201.

10. A search warrant for historical cellsite information and phone records for 317-602-9150 was obtained, which revealed that 317-602-9150 left Indianapolis at approximately 11:00 p.m. (CST) on December 27, 2016. The historical cellsite records reveal that 317-602-9150 was in the immediate area of the carjacking in Chicago at the time of the carjacking during the early morning hours of December 28, 2016 and left the area immediately following the carjacking and arrived in Milwaukee at approximately 6:06 a.m. (CST) on December 28, 2016. The cellsite records reveal that 317-602-9150 was in the immediate area of the Swan Pharmacy at the time of the armed robbery and left the area immediately following the armed robbery and traveled back to Indianapolis and arrived in Lebanon, IN at approximately 1:09 p.m. on December 28, 2016.

11. On January 2, 2017, five days after the armed robbery of Swan Pharmacy, Kiim Wells made the following public post: “ hmu.” Based upon my training and experience and the investigation to date, case agents are aware that “hmu” means “hit me up,” and case agents believe that Kiim Wells’ post was to solicit customers to buy pills from her.

12. Similarly, Elix posted on his Facebook page the day of the robbery “I got what you need .

13. On January 5, 2017, law enforcement in Lawrence, IN arrested Monaye A. Williams (F/B 07/12/97) and Marqucal Flemming (M/B 01/12/95) for warrants and

other charges. During the investigation, a stolen Glock 19 (Serial Number YTP840) was found inside the hotel room Williams and Flemming were arrested in. A photo of the gun inside of the hotel room was taken. The Glock had an extension mounted on the "tang" of the gun, long, after-market sights, and a grip extension on the magazine. The surveillance video from the Swan Pharmacy robbery captured quality images of the gun possessed by the suspects during the robbery. In the video, the distinct features of the after-market sights, the extended tang and the grip extension on the magazine are visible. The shape, size, color and the features of the gun used in the robbery are consistent with that of the gun recovered during the arrest of Monaye Williams.

14. Additionally, case agents reviewed a booking photo of Monaye Williams taken by the Indianapolis Police Department on January 5, 2017 and compared the booking photo to photos posted on the "Kiim Wells" Facebook page and confirmed they are the same person.

15. Finally, on January 8, 2017, there was a private message between "Mika Thurman" and Elix Powell during which they discuss Monaye's arrest and Powell states "They stupid asf did he get caught with the gun."

16. Facebook owns and operates a free-access social networking website of the same name that can be accessed at <http://www.facebook.com>. Facebook allows its users to establish accounts with Facebook, and users can then use their accounts to share written news, photographs, videos, and other information with other Facebook users, and sometimes with the general public.

17. Facebook asks users to provide basic contact and personal identifying information to Facebook, either during the registration process or thereafter. This information may include the user's full name, birth date, gender, contact e-mail addresses, Facebook passwords, Facebook security questions and answers (for password retrieval), physical address (including city, state, and zip code), telephone numbers, screen names, websites, and other personal identifiers. Facebook also assigns a user identification number to each account.

18. Facebook users may join one or more groups or networks to connect and interact with other users who are members of the same group or network. Facebook assigns a group identification number to each group. A Facebook user can also connect directly with individual Facebook users by sending each user a "Friend Request." If the recipient of a "Friend Request" accepts the request, then the two users will become "Friends" for purposes of Facebook and can exchange communications or view information about each other. Each Facebook user's account includes a list of that user's "Friends" and a "News Feed," which highlights information about the user's "Friends," such as profile changes, upcoming events, and birthdays.

19. Facebook users can select different levels of privacy for the communications and information associated with their Facebook accounts. By adjusting these privacy settings, a Facebook user can make information available only to himself or herself, to particular Facebook users, or to anyone with access to the Internet, including people who are not Facebook users. A Facebook user can also create

"lists" of Facebook friends to facilitate the application of these privacy settings. Facebook accounts also include other account settings that users can adjust to control, for example, the types of notifications they receive from Facebook.

20. Facebook users can create profiles that include photographs, lists of personal interests, and other information. Facebook users can also post "status" updates about their whereabouts and actions, as well as links to videos, photographs, articles, and other items available elsewhere on the Internet. Facebook users can also post information about upcoming "events," such as social occasions, by listing the event's time, location, host, and guest list. In addition, Facebook users can "check in" to particular locations or add their geographic locations to their Facebook posts, thereby revealing their geographic locations at particular dates and times. A particular user's profile page also includes a "Wall," which is a space where the user and his or her "Friends" can post messages, attachments, and links that will typically be visible to anyone who can view the user's profile.

21. Facebook allows users to upload photos and videos, which may include any metadata such as location that the user transmitted when s/he uploaded the photo or video. It also provides users the ability to "tag" (i.e., label) other Facebook users in a photo or video. When a user is tagged in a photo or video, he or she receives a notification of the tag and a link to see the photo or video. For Facebook's purposes, the photos and videos associated with a user's account will include all photos and videos

uploaded by that user that have not been deleted, as well as all photos and videos uploaded by any user that have that user tagged in them.

22. Facebook users can exchange private messages on Facebook with other users. These messages, which are similar to e-mail messages, are sent to the recipient's "Inbox" on Facebook, which also stores copies of messages sent by the recipient, as well as other information. Facebook users can also post comments on the Facebook profiles of other users or on their own profiles; such comments are typically associated with a specific posting or item on the profile. In addition, Facebook has a Chat feature that allows users to send and receive instant messages through Facebook. These chat communications are stored in the chat history for the account. Facebook also has a Video Calling feature, and although Facebook does not record the calls themselves, it does keep records of the date of each call.

23. If a Facebook user does not want to interact with another user on Facebook, the first user can "block" the second user from seeing his or her account.

24. Facebook has a "like" feature that allows users to give positive feedback or connect to particular pages. Facebook users can "like" Facebook posts or updates, as well as webpages or content on third-party (*i.e.*, non-Facebook) websites. Facebook users can also become "fans" of particular Facebook pages.

25. Facebook has a search function that enables its users to search Facebook for keywords, usernames, or pages, among other things.

26. Each Facebook account has an activity log, which is a list of the user's posts and other Facebook activities from the inception of the account to the present. The activity log includes stories and photos that the user has been tagged in, as well as connections made through the account, such as "liking" a Facebook page or adding someone as a friend. The activity log is visible to the user but cannot be viewed by people who visit the user's Facebook page.

27. Facebook Notes is a blogging feature available to Facebook users, and it enables users to write and post notes or personal web logs ("blogs"), or to import their blogs from other services, such as Xanga, LiveJournal, and Blogger.

28. The Facebook Gifts feature allows users to send virtual "gifts" to their friends that appear as icons on the recipient's profile page. Gifts cost money to purchase, and a personalized message can be attached to each gift. Facebook users can also send each other "pokes," which are free and simply result in a notification to the recipient that he or she has been "poked" by the sender.

29. Facebook also has a Marketplace feature, which allows users to post free classified ads. Users can post items for sale, housing, jobs, and other items on the Marketplace.

30. In addition to the applications described above, Facebook also provides its users with access to thousands of other applications ("apps") on the Facebook platform. When a Facebook user accesses or uses one of these applications, an update about that the user's access or use of that application may appear on the user's profile page.

31. Facebook uses the term "Neoprint" to describe an expanded view of a given user profile. The "Neoprint" for a given user can include the following information from the user's profile: profile contact information; News Feed information; status updates; links to videos, photographs, articles, and other items; Notes; Wall postings; friend lists, including the friends' Facebook user identification numbers; groups and networks of which the user is a member, including the groups' Facebook group identification numbers; future and past event postings; rejected "Friend" requests; comments; gifts; pokes; tags; and information about the user's access and use of Facebook applications.

32. Facebook also retains Internet Protocol ("IP") logs for a given user ID or IP address. These logs may contain information about the actions taken by the user ID or IP address on Facebook, including information about the type of action, the date and time of the action, and the user ID and IP address associated with the action. For example, if a user views a Facebook profile, that user's IP log would reflect the fact that the user viewed the profile, and would show when and from what IP address the user did so.

33. Social networking providers like Facebook typically retain additional information about their users' accounts, such as information about the length of service (including start date), the types of service utilized, and the means and source of any payments associated with the service (including any credit card or bank account number). In some cases, Facebook users may communicate directly with Facebook

about issues relating to their accounts, such as technical problems, billing inquiries, or complaints from other users. Social networking providers like Facebook typically retain records about such communications, including records of contacts between the user and the provider's support services, as well as records of any actions taken by the provider or user as a result of the communications.

34. As explained herein, information stored in connection with a Facebook account may provide crucial evidence of the "who, what, why, when, where, and how" of the criminal conduct under investigation, thus enabling the United States to establish and prove each element or alternatively, to exclude the innocent from further suspicion. In my training and experience, a Facebook user's "Neoprint," IP log, stored electronic communications, and other data retained by Facebook, can indicate who has used or controlled the Facebook account. This "user attribution" evidence is analogous to the search for "indicia of occupancy" while executing a search warrant at a residence. For example, profile contact information, private messaging logs, status updates, and tagged photos (and the data associated with the foregoing, such as date and time) may be evidence of who used or controlled the Facebook account at a relevant time. Further, Facebook account activity can show how and when the account was accessed or used. For example, as described herein, Facebook logs the Internet Protocol (IP) addresses from which users access their accounts along with the time and date. By determining, the physical location associated with the logged IP addresses, investigators can understand the chronological and geographic context of the account access and use

relating to the crime under investigation. Such information allows investigators to understand the geographic and chronological context of Facebook access, use, and events relating to the crime under investigation. Additionally, Facebook builds geo-location into some of its services. Geo-location allows, for example, users to "tag" their location in posts and Facebook "friends" to locate each other. This geographic and timeline information may tend to either inculpate or exculpate the Facebook account owner. Last, Facebook account activity may provide relevant insight into the Facebook account owner's state of mind as it relates to the offense under investigation. For example, information on the Facebook account may indicate the owner's motive and intent to commit a crime (e.g., information indicating a plan to commit a crime), or consciousness of guilt (e.g., deleting account information in an effort to conceal evidence from law enforcement).

35. Therefore, the computers of Facebook are likely to contain all the material described above, including stored electronic communications and information concerning subscribers and their use of Facebook, such as account access information, transaction information, and other account information.

INFORMATION TO BE SEARCHED AND THINGS TO BE SEIZED

36. I anticipate executing this warrant under the Electronic Communications Privacy Act, in particular 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A), by using the warrant to require Facebook to disclose to the government copies of the records and other information (including the content of communications) particularly described in

Section I of Attachment B. Upon receipt of the information described in Section I of Attachment B, government-authorized persons will review that information to locate the items described in Section II of Attachment B.

CONCLUSION

37. Based on the forgoing, I submit that there is a probable cause to believe that Monaye Williams' Facebook records contain evidence of the commission of the armed Hobbs Act robbery of Swan Pharmacy on December 28, 2016. This evidence may include, but is not limited to, photos of Powell or his co-actor wearing the same clothing worn during the armed robbery, identification of phone numbers used by Powell's co-actor or getaway driver, discussions regarding traveling to Chicago and Milwaukee to commit an armed robbery of a pharmacy and discussions regarding sale of the pills obtained from the armed robbery and/or photos of the drugs obtained from the robbery or gun used during the armed robbery.

38. This Court has jurisdiction to issue the requested warrant because it is "a court of competent jurisdiction" as defined by 18 U.S.C. § 2711. 18 U.S.C. §§ 2703(a), (b)(1)(A) & (c)(1)(A). Specifically, the Court is "a district court of the United States in the Eastern District of Wisconsin that has jurisdiction over the offense being investigated." 18 U.S.C. § 2113(a) and (d) (armed bank robbery) and 924(c)(brandishing a firearm in furtherance of a crime of violence)

39. Pursuant to 18 U.S.C. § 2703(g), the presence of a law enforcement officer is not required for the service or execution of this warrant

ATTACHMENT A

Property to Be Searched

This warrant applies to information associated with the following Facebook Account(s):

NAME	FACEBOOK IDENTIFICATION (UID)	FACEBOOK NAME
Monaye Williams	100001565819012	"Kiim Wells (K I M)"

that is stored at premises owned, maintained, controlled, or operated by Facebook Inc., a company headquartered in Menlo Park, California.

ATTACHMENT B

Particular Things to be Seized

I. Information to be disclosed by Facebook

To the extent that the information described in Attachment A is within the possession, custody, or control of Facebook Inc. ("Facebook"), including any messages, records, files, logs, or information that have been deleted but are still available to Facebook, or have been preserved pursuant to a request made under 18 U.S.C. § 2703(f), Facebook is required to disclose the following information to the government for each user ID listed in Attachment A:

- (a) All contact and personal identifying information, including for user "Kiim Wells (K I M) with user id 100001565819012: full name, user identification number, birth date, gender, contact e-mail addresses, Facebook passwords, Facebook security questions and answers, physical address (including city, state, and zip code), telephone numbers, screen names, websites, and other personal identifiers.
- (b) All activity logs for the account and all other documents showing the user's posts and other Facebook activities;
- (c) All photos and videos uploaded by that user ID and all photos and videos uploaded by any user that have that user tagged in them;
- (d) All profile information; News Feed information; status updates; links to videos, photographs, articles, and other items; Notes; Wall postings; friend lists, including the friends' Facebook user identification numbers;

groups and networks of which the user is a member, including the groups' Facebook group identification numbers; future and past event postings; rejected "Friend" requests; comments; gifts; pokes; tags; and information about the user's access and use of Facebook applications;

- (e) All other records of communications and messages made or received by the user, including all private messages, chat history, video calling history, and pending "Friend" requests;
- (f) All "check ins" and other location information;
- (g) All IP logs, including all records of the IP addresses that logged into the account;
- (h) All records of the account's usage of the "Like" feature, including all Facebook posts and all non-Facebook webpages and content that the user has "liked";
- (i) All information about the Facebook pages that the account is or was a "fan" of;
- (j) All past and present lists of friends created by the account;
- (k) All records of Facebook searches performed by the account;
- (l) All information about the user's access and use of Facebook Marketplace;
- (m) The types of service utilized by the user;

- (n) The length of service (including start date) and the means and source of any payments associated with the service (including any credit card or bank account number);
- (o) All privacy settings and other account settings, including privacy settings for individual Facebook posts and activities, and all records showing which Facebook users have been blocked by the account;
- (p) All records pertaining to communications between Facebook and any person regarding the user or the user's Facebook account, including contacts with support services and records of actions taken.

II. Information to be seized by the government

All information described above in Section I that constitutes fruits, evidence and instrumentalities of violations of Title 18, United States Code, Section 1951(a) (armed Hobbs Act robbery) and 924(c)(brandishing a firearm in furtherance of a crime of violence) involving Elix Powell or Monaye Williams since December 1, 2016, including, for each user ID identified on Attachment A, information pertaining to the following matters:

- (a) Communications between known subjects. Communications between known subjects and unknown subjects. Pictures of clothing and gun used during armed robbery. Preparatory steps taken in furtherance of the armed robbery and communications regarding sale of pills or other drugs.